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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

31045-19

First Named Inventor: Anthony Cox, et al.

Art Unit: 3728

Application Number: 10/630,032

Examiner: Anthony Cox

Filed: July 30, 2003

Title: Shoe Bottom Having Interspersed Materials

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- ☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
Response to Restriction Requirement (identify the type of reply):

- ☐ has been filed previously on _____
- ☒ is enclosed herewith.

B The issue fee of \$ _____

- ☐ has been filed previously on _____
- ☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


Signature

March 21, 2006

Date

Joseph G. Swan

Typed or printed name

41,338

Registration Number, if applicable

Mitchell Silberberg & Knupp LLP

Address

(310) 312-2000

Telephone Number

11377 W. Olympic Boulevard, Los Angeles, CA 90064

Address

Enclosure ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 272-8300.

March 21, 2006

Date

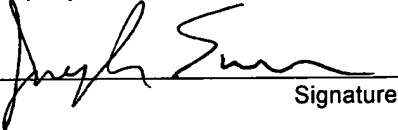

Signature

Jennifer Gaines

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

March 21, 2006

Date

Joseph G. Swan

Typed or printed name

41,338

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Neither Applicants nor Applicants' attorneys ever received the Restriction Requirement dated January 26, 2005. In this regard, all incoming patent correspondence from the U.S. Patent and Trademark Office initially would have been opened by the patent group's assistant, Jennifer Gaines. She would have docketed the communication in our CPi system, the responsible attorney (me in this case) would have separately docketed it (in Microsoft Outlook Tasks), and a copy of the communication would have been placed in the physical file. However, no indication of the present restriction requirement appears in either docketing system, and no copy of the communication appears in the physical file. Instead, Applicants only became aware of the Restriction Requirement upon a check of the status of the application on the PAIR System by Applicants' attorney on March 7, 2006. Thereafter, and up until the present filing, Applicants and their attorney diligently have worked on investigating the relevant facts and preparing the response to the Restriction Requirement. Therefore, it is believed that the entire delay in responding to the Restriction Requirement was unavoidable.

(Please attach additional sheets if additional space is needed.)